

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BYRON K. MORGAN, II, GARY A.
PATTEN AND WILLIAM DAVID
FRANKLIN, A/N/F OF K.W. AND
B.W., MINORS
Plaintiffs

VS.

TIMOTHY P. KAUFFMAN and
CHRISTIAN AID MINISTRIES INC.
Defendants

CIVIL ACTION NO. 1:22-CV-0051

NOTICE OF REMOVAL

Christian Aid Ministries, Inc. files this Notice of Removal, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removing Cause No. A-0209122; *Byron K. Morgan et al v. Timothy P. Kauffman et al*, from the 58th District Court of Jefferson County, Texas to the United States District Court for the Eastern District of Texas, Beaumont Division.

I. BACKGROUND

1. This case involves alleged personal injury and property damage sustained as the result of an automobile collision in Beaumont, Texas. Plaintiffs Morgan et. al, filed their Original Petition on January 17, 2022, and Defendant Christian Aid Ministries was served on January 24, 2022. In their Petition, Plaintiffs allege negligence and gross negligence on the part of Defendant Kaufman, and vicarious liability, negligent supervision, and negligent entrustment on the part of Christian Aid Ministries, Inc. For damages, Plaintiffs allege medical expenses, physical pain and suffering, mental anguish, loss of earnings, and physical impairment/loss of enjoyment. In the State court action,

Christian Aid Ministries, Inc. has generally denied Plaintiffs' claims and has raised a number of affirmative defenses.

II. TIMELINESS OF REMOVAL

2. A Notice of Removal is filed timely if it is filed within thirty (30) days after the receipt of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. *See* 28 U.S.C. § 1446(b). According to the records of the Court below, Christian Aid Ministries first received notice of Plaintiff's lawsuit on January 24, 2022, when the petition and citation were personally served on its agent. This Notice of Removal is being timely filed on February 14, 2022, within the thirty (30) day deadline to do so. 28 U.S.C. § 1446(b).

III. GROUND FOR REMOVAL

3. Federal Courts have diversity jurisdiction over matters where the parties are citizens of different states and the amount in controversy exceeds \$75,000.00. 28 U.S.C. §§ 1332, 1441. The parties to this action are diverse. Plaintiffs state, in paragraph two of the Original Petition, that they are domiciled in Texas. evidence of a person's place of residence is *prima facie* proof of his domicile. *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 571 (5th Cir. 2011). For purposes of federal diversity jurisdiction 'citizenship' and 'domicile' are synonymous. *Freeman v. Nw. Acceptance Corp.*, 754 F.2d 553, 555 (5th Cir. 1985).

4. Christian Aid Ministries is an Ohio corporation, with a principal place of business is in Ohio. A corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its

principal place of business. 28 U.S.C. § 1332. Therefore, Christian Aid Ministries is an Ohio citizen and shares no common citizenship with Plaintiff. Defendant Kaufman is domiciled in the state of Kentucky. Accordingly, there is complete diversity between the parties which is acknowledged in Plaintiff's State Court petition.

5. The amount in controversy exceeds \$75,000.00. In paragraph six of their Petition, Plaintiffs plead for "monetary relief over \$1,000,000" under Rule 47(c)(c) of the TEXAS RULES OF CIVIL PROCEDURE. On its face, this exceeds the jurisdictional requisites of 28 U.S.C. § 1332, 1441.

6. Finally, all named Defendants who have been served with Plaintiffs' Original Petition consent to removal in this case in accordance with 28 U.S.C. § 1446(b)(2)(A).

IV. JURY DEMAND

7. Plaintiff demanded a jury in the state court action.

V. CONCLUSION & PRAYER

8. This Court has jurisdiction in this case as Christian Aid Ministries, Inc. has shown by a preponderance of the evidence that complete diversity exists among the parties and the amount in controversy for federal diversity jurisdiction is satisfied. Further, venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

9. Promptly after filing this Notice of Removal, Christian Aid Ministries shall cause a true and correct copy of the same to be filed with the Clerk of the 58th District Court of Jefferson County, Texas in accordance with 28 U.S.C. § 1446(d), as well as provide Plaintiffs with a copy of the same. Further, and pursuant to Local Rule CV-81 of

the Eastern District of Texas, Defendant is filing with this Notice of Removal the following:

- 1) a list of all parties in the case, their party type and current status of the removed case;
- 2) a civil cover sheet and certified copy of the state court docket sheet; a copy of all leadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions, all answers to such pleadings, and a copy of all process and orders served upon the party removing;
- 3) a complete list of attorneys involved in the action being removed;
- 4) a record of which parties have requested jury trial; and
- 5) the name and address of the court from which the case was removed.

Accordingly, Christian Aid Ministries Inc. respectfully requests that this Court remove this action from the 58th District Court of Jefferson County, Texas.

Respectfully submitted,

By: /s/ David K. Loveless

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ATTORNEYS FOR CHRISTIAN AID
MINISTRIES, INC

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been served on all counsel of record in accordance with the FEDERAL RULES OF CIVIL PROCEDURE on February 14, 2022.

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/s/ David K. Loveless
David K. Loveless